

Utah Solid and Hazardous Waste Control Board
Meeting Minutes
November 13, 2008
1:30 p.m.

Board Members Present: Carlton Christensen (Chair), John Newman (Vice Chair), Craig Anderson, Michael Brehm, Scott Bruce, Jeff Coombs, Ryan Dupont, Craig Forster, Gary Mossor, Kevin Murray, Dennis Riding and Rick Sprott.

Board Members Excused: Kory Coleman

Staff Members Present: Scott Anderson, Brad Johnson, Shane Bekkemellom, Marty Gray, Arlene Lovato, Dale Marx, Brad Maulding, Terry Montgomery, Cheryl Prawl, Pat Sheehan, Don Verbica, Bill Wallner, Otis Willoughby, and Raymond Wixom.

Others Present: Amy Blauser, Ron Bowlin, David Gibby, Lon Griffith, Stan Hartmark, Jeff Mensinger, Sean McCandless, Melissa Scales, Christopher Thomas, Robert Townsend, Janet Weyland, Colleen Wilson, and Rob Yarosik.

I. Call to Order.

Carlton Christensen (Chair) called the meeting to order at 1:30 p.m. Kory Coleman and Dennis Downs were excused from the meeting.

II. Approval of Meeting Minutes for the October 9, 2008 Board Meeting (Board Action Item).

Dennis Riding moved to approve the October 9, 2008 Board meeting minutes. The motion was seconded by John Newman and UNANIMOUSLY CARRIED.

III. Underground Storage Tanks Update.

Brad Johnson reported to the Board members that on October 23-24, 2008, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) held their annual meeting in Baltimore, Maryland, in which a number of national issues concerning Underground Storage Tanks (USTs) were discussed. One of the topics discussed in the meeting was regarding Brownfields, where a substantial amount of federal money is available for Brownfields Grants, particularly for petroleum impacted sites. These grants are available to assist individual states in identifying properties that qualify for investigation and cleanup. The Division of Environmental Response and Remediation (Division) has applied for a \$400,000.00 grant to identify additional sites that would then be eligible for remediation.

Another issue discussed was the use of alternative fuels. In the August 2008 Board meeting, the Board members approved rules that required owner/operators to inform the Division if they receive fuel that is greater than 10% ethanol or greater than 5% bio-diesel. Across the country, many states are also dealing with alternative fuel issues on a much wider scale than the State of Utah. The use of these fuels will probably become much more prevalent in the West in the future.

Vapor intrusion was also discussed in the ASTSWMO meeting. When an UST leaks, the fuel can contaminate the groundwater, which can then vaporize and start causing exposure problems in surrounding buildings. The models that are currently being used across the country to predict vapor intrusion and exposures are not consistent. In response to this inconsistency, the Environmental Protection Agency is now looking at developing a consistent way of dealing with vapor intrusion in the UST Program.

Mr. Johnson then informed the Board members that the Utah UST Advisory Task Force will meet on November 18, 2008. The main topics to be discussed include the 2008 Petroleum Storage Tank (PST) Fund Actuarial Report, which was given to the Board in the October meeting, draft rules regarding the certification of

owners/operators, which is anticipated to be brought before the Board in the February meeting, and vapor intrusion.

Mr. Johnson finished by stating that the current cash balance of the PST Fund is 13.2 million dollars and that if any legislation regarding the UST Program comes out during the upcoming Legislative Session, the Board will be updated on its status.

IV. Summary of the statewide recycling survey that was completed in August 2008 (copies of the survey results were emailed to all Board members and are also available with the meeting minutes).

Sam Schroyer, Environmental Scientist in the Planning/Used Oil Program Section, summarized the statewide recycling survey that was recently completed. Mr. Schroyer stated that the initial reasons for the survey was to compile statistics regarding used oil recycling, track future trends, and see if there is any explanation why oil being recycled from the “do-it-yourself” used oil collection centers has leveled off.

As the survey was developed, it was determined that additional questions could be asked during the survey without incurring additional costs. Therefore, general recycling questions were incorporated into the survey. Recycling in Utah is growing and becoming a common media topic. Division staff worked with the Recycling Coalition of Utah to develop some of the recycling questions. The survey was divided into two sections, used oil recycling and general recycling.

The Division staff worked directly with Dan Jones and Associates to conduct the statewide phone survey. Calls were completed in August 2008 and there 803 respondents. Additional information on the survey results, including an executive summary of the survey, can also be found on the Division’s website at http://www.hazardouswaste.utah.gov/recycling_survey_2008.pdf

Mr. Shroyer also discussed the possibility of a material recovery facility tour for the Board members. If Board members are interested, a tour could be conducted in the spring of 2009. Currently, two facilities sort the curb-side collections from the Salt Lake County area.

Carlton Christensen commented that oil changing businesses put stickers in your vehicle window that indicate when the oil should be changed and most people feel guilty if they do not adhere to the scheduled oil changes. Mr. Christensen asked if it would be advantageous for the Used Oil Program staff to work with this industry regarding the frequency of oil changes.

Mr. Schroyer recommended that drivers check their owners’ manual prior to getting their oil changed. Most oil changing businesses recommend an oil change every 3,000 miles because of the severe driving conditions in Utah. Even so, it appears that most drivers are changing their oil every 4,500 to 5,000 miles. The Division will continue to work with these businesses to extend their recommendations.

Carlton Christensen noted that the when the Board toured the facility in Washington County, he was surprised to see only one individual operating and addressing recycling needs in such a populated county. Mr. Christensen asked if there are any incentives for industries to locate additional recycling facilities in a given area. Mr. Schroyer explained that the State does have some incentives that could be used, such as a tax credit.

Kevin Murray stated that household hazardous waste is now a bigger challenge and should be addressed. Mr. Murray noted that many residents can only recycle household hazardous waste twice a year. Otherwise, the waste is thrown in the trash or stored. Mr. Schroyer explained that recycling household hazardous waste programs are limited due to the costs.

Rick Sprott stated that the Wasatch Integrated Waste Facility will accept household hazardous waste for free, and is very convenient. Mr. Sprott felt this facility may be a model that could be utilized by other facilities to begin accepting this type of waste. Mr. Murray also felt that educating the general public regarding the facilities available that will accept this waste would be helpful.

V. Proposed Hazardous Waste rule changes, adoption of Cathode Ray Tubes (CRT), Rules R315-1 and R315-2, for rulemaking and public comment period (Board Action Item).

Susan Toronto explained that the Division is proposing changes to the Utah Hazardous Waste Rules in order to adopt changes made to corresponding federal hazardous waste regulations regarding the Cathode Ray Tubes (CRTs) Rule. These rule changes streamline the management requirements for recycling of used CRTs and the glass removed from the CRTs. The amendments exclude these materials from the RCRA definition of solid waste if certain conditions are met. The rule is intended to encourage recycling and reuse of used CRTs and CRT glass. The proposed rule changes require the Board's approval to begin the formal rulemaking process and public comment period. The Division and the Executive Secretary recommend that the Board approve the proposed changes for public comment and formal rulemaking.

Michael Brehm asked if EPA was pushing for the implementation of the CRT rules or if the Division initiated the proposed rule changes. Ms. Toronto explained that adoption of the rule was the Division's initiative and was intended to encourage the recycling of CRTs and associated components. Mr. Brehm asked what the practical effect of this rule would be in Utah. Ms. Toronto responded that although the proposed rule will reduce the regulatory burden for management of CRTs, its effect on recycling of these materials could not be determined at this time.

It was motioned by Craig Anderson and seconded by Craig Forster and UNANIMOUSLY carried that the proposed hazardous waste rule changes, adoption of Cathode Ray Tubes (CRTs), Rules R315-1 and R315-2, be approved for public comment and formal rulemaking.

VI. Hazardous Waste Facilities Section.

A. Stipulation and Consent Agreement between the Board and ATK Launch Systems, Inc. (Bacchus Facility) Information Item.

Brad Maulding presented a proposed Stipulation and Consent Agreement (SCA) to terminate ATK Launch Systems' obligations under a 1988 Stipulation and Consent Order relative to corrective action at the ATK Bacchus Facility in West Valley City, Utah. In August 1988, the Utah Solid and Hazardous Waste Committee entered into the Order with Hercules, which is now ATK, to resolve some Notices of Violation and Orders for Compliance. That Order identified how Hercules (now ATK) would address corrective action at the Bacchus facility. On September 30, 2008, the Executive Secretary issued a Hazardous Waste Storage Permit (the Permit) to ATK for the ATK Bacchus Facility, Plant 1 operation. This Permit incorporated the corrective action program for the Bacchus Facility, making the Order obsolete.

Mr. Maulding noted that Division staff have been working with ATK for a number of years on corrective action and great progress has been made at the facility relative to interim measures, on-going investigations and groundwater monitoring.

The public comment period for this SCA started on October 23, 2008 and will end on November 24, 2008. A recommendation will be provided to the Board at the January 2009 meeting after the completion of public comment period.

B. Reissuance of ATK Launch Systems – Promontory Facility, Hazardous Waste Storage Permit (Information Item).

Brad Maulding explained that the Hazardous Waste Storage Permit for the ATK Launch Systems Promontory Facility has been reissued. The ATK Promontory facility is located in Box Elder County. The Promontory facility produces motors for the Space Shuttle, and is involved in the development of the next generation of space shuttles and the production and testing of various types of military flares. ATK generates a variety of chemical and reactive hazardous wastes and conducts hazardous waste management activities at the site that are regulated by R315 of the Utah Administrative Code (UAC).

The site was formerly owned and operated by the Thiokol Corporation. A hazardous waste storage permit was originally issued to the Thiokol Corporation on September 15, 1992. The permit reauthorizes the operation of six hazardous waste storage units in accordance with the UAC.

C. Issuance of ATK Launch Systems – Bacchus Facility – Plant 1, Hazardous Waste Storage Permit (Information Item).

Brad Maulding informed the Board that the Hazardous Waste Storage Permit for the ATK Launch Systems Bacchus Facility has also been issued. The ATK-Bacchus facility is located in West Valley City, Utah. Since 1958, the facility has primarily been used to formulate solid rocket propellant and produce a variety of rocket motors.

ATK-Bacchus generates a variety of chemical and explosive hazardous wastes and conducts hazardous waste management activities that are regulated by R315 of the Utah Administrative Code (UAC). Since 1980, ATK-Bacchus has been operating the Plant 1 facility under interim status, a temporary authorization for the operation of a hazardous waste management facility. This Permit will replace the interim status for the Plant 1 storage facilities and authorize the use of four hazardous waste storage units in accordance with R315 of the Utah Administrative Code. The Permit includes provisions to manage the corrective action program at the Bacchus Works in accordance with UAC R315-8-6.12. This permit became effective on September 30, 2008.

VII. Used Oil/Planning Section.

A. Stipulation and Consent Order between the Board and Golden Eagle Oil Refinery, Inc. (Board Action Item).

Scott Anderson reviewed the proposed Stipulation and Consent Order (SCO) between the Board and Golden Eagle Oil Refinery. This SCO resolves two Notices of Violations. Golden Eagle is a permitted used oil processor, transporter and marketer located in Woods Cross, Utah.

Mr. Anderson explained that on December 20, 2006, and April 9, 2007, representatives of the Division inspected Golden Eagle's Woods Cross facility. Based on those inspections and additional findings documented during an inspection at the Salt Lake Garfield & Western Railway Company on February 1-2, 2007, two Notices of Violation and Orders for Compliance (Numbers 0703011 and 0711028) dated August 28, 2007 and January 2, 2008 were issued to Golden Eagle.

To resolve both NOV/COs, an SCO was negotiated with Golden Eagle Oil Refinery. Under the terms of the proposed SCO, Golden Eagle will pay a penalty of \$55,000 in four quarterly installments. The first payment will be due 90 days from the effective date of the SCO.

Mr. Anderson stated that, pursuant to the Board's request at the last Board meeting to visit the facility, he and two other Division staff members recently conducted an inspection to review Golden Eagle's compliance status, prepare an analysis of what is presently taking place at the facility, review how they are doing regarding their past violations, and possibly consider an increase in inspection frequency at the facility.

Mr. Anderson stated he was impressed with the site in terms of its cleanliness, physical layout, and its ability to process the used oil in accordance with its permit. Mr. Anderson explained that although some minor issues were noted, the overall assessment of the site showed nothing that should preclude the Board from moving forward on the SCO. A 30-day public comment period on the proposed SCO was initiated on September 30, 2008 and closed on October 29, 2008. No comments were received. Mr. Anderson recommended the Board approve the proposed SCO between the Board and Golden Eagle.

Craig Forster requested clarification on the adjustment to the penalty for "litigative risk." Cheryl Prawl explained that all parties in a negotiation reach a point where they must assess the risk of the other party initiating expensive legal proceedings if a settlement can't be reached. The Board's penalty policy allows for an adjustment for this potential risk as a way to structure penalties so that resolution can be achieved without resorting to costly and uncertain legal proceedings. In this case, the Division felt that an adjustment for litigative risk was appropriate in order to reach agreement on the proposed SCO that was acceptable to both Golden Eagle and the Division.

Michael Brehm reminded the Board that much of the discussion regarding Golden Eagle in the previous Board meeting centered on the current operation, current staff, and current oversight. Mr. Brehm stated it was good to hear the report from Mr. Anderson indicating the facility is on the right track, but asked if the new owner was present during the inspection and what changes had been made to the operation.

Stan Hartmark, co-owner of Golden Eagle Oil Refinery introduced himself to the Board and explained that he owns 50% of Golden Eagle Refinery and his partner is Merrill Maughn. Together, they previously owned Valley Oil Transportation, and in 1984, bought Golden Eagle Oil Refinery. At that time, Mr. Hartmark was in charge of operating Valley Oil Transportation, and Mr. Maughn was in charge of operating the Golden Eagle Oil Refinery. When compliance issues arose with the Golden Eagle Oil Refinery a little more than a year ago, Mr. Hartmark took charge of operating the facility.

Mr. Hartmark further explained that he maintains a home in California and recently purchased a home in Utah, so as to oversee the daily activities at Golden Eagle. Chris Harris, an environmental attorney, has been retained to ensure all activities at the facility are in compliance with the environmental regulations. Golden Eagle has also retained Les Pennington, of Wasatch Environmental, to review all the permits and licenses to ensure the facility is in compliance and everything is in order. Mr. Hartmark stated he is applying for more permits for a rail-spur located at 7200 West and I-80. Mr. Hartmark also briefly discussed his efforts to terminate his partnership with Merrill Maughn and reaffirmed his committed to do everything necessary to ensure that Golden Eagle operates in compliance.

It was motioned by Rick Sprott and seconded by Ryan Dupont and unanimously carried to approve Stipulation and Consent Order (SCO) No. 0710023 between the Board and Golden Eagle Oil Refinery, Inc to resolve Notices of Violation No. 0711028 and No. 0703011.

VIII. Commercial/Federal Facilities.

A. EnergySolutions, LLC request for a site-specific treatment variance for cemented uranium extraction process residues (Board Action Item).

Otis Willoughby reviewed the EnergySolutions LLC request for a one-time, site-specific treatment variance for cemented uranium extraction process residues. Mr. Willoughby explained this treatment variance request is very similar to the one that was presented to the Board in the past. It is the same waste and the same process, the only difference is that it is a different DOE generator doing the same work.

The Mixed Waste Facility proposes to continue receiving cemented monoliths containing enriched uranium residues. This material retains hazardous waste codes for cadmium, chromium, and lead. The generator has encapsulated the waste in concrete for security reasons. This waste meets all license conditions for radioactive waste disposal at the facility.

EnergySolutions proposes to receive this waste for macroencapsulation in the Mixed Waste Landfill Cell rather than chemical stabilization as required. This request is based on the fact that the waste has already been encapsulated in concrete at the generator's site. Treating this waste by the required method would mean grinding the waste and potentially exposing workers to unnecessary contamination.

The proposed treatment will further encapsulate the waste and protect it from contact with precipitation, thereby decreasing the potential for leaching. EnergySolutions proposes to receive approximately 1,100 cubic feet of this waste. Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the EnergySolutions Mixed Waste Facility.

The public comment period began October 9, 2008 and ended November 10, 2008. No comments were received. Also, a public hearing was held in the Tooele County Courthouse on October 23, 2008 at 7:00 p.m. No comments were received. Approval of this request is recommended, based on the following findings: the proposed alternative treatment method meets the regulatory basis for a variance, and will be as safe to human health and the environment as the required method and the proposed alternative will greatly reduce the possible worker contact with the waste.

It was motioned by Dennis Riding and seconded by Ryan Dupont and unanimously carried to approve EnergySolutions LLC request for a site-specific treatment variance for cemented uranium extraction process residues.

IX. Chemical Demilitarization.

A. TOCDF Update.

The TOCDF continues to process mustard ton containers, and is about 40% complete with the project. The main permitting focus at this time is on secondary waste. Two permit modifications are currently being reviewed. The first permit modification is the addition of a glove box in which secondary waste can be sorted. The second permit modification is for an autoclave to treat the secondary waste. This will be the first time this type of device will be used in the chemical demilitarization program.

Activities at Area 10 include closing some of the empty igloos. A permit modification specifies the procedures to close the igloos once they are emptied. The Depot would like to get these empty igloos closed as soon as possible, so they can be used for storage of conventional munitions from Tooele-North.

Activities at CAMDS include closure activities involving the metal parts furnace and the pollution abatement system.

Mr. Gray advised the Board that in January 2009, a Consent Order will be brought before the Board regarding Dugway Proving Ground's proposal to treat range-recovered munitions. These munitions are currently stored at Dugway. Dugway recently completed an agreement with the Army's Non-Stockpile Program to bring the Explosive Destruction System (EDS) to Dugway to treat the wastes currently in storage. The Consent Order will authorize operation of the EDS.

Mr. Brehm asked if the range-recovered munitions are considered unexploded ordnance. Mr. Gray explained the Army does consider the types of munitions as unexploded ordnance.

Mr. Brehm asked about the Army's percent recovery rate on these types of munitions. Mr. Gray explained the Army does not actively go out and recover items from the range. However, when they are found, Army personnel bring the munitions to Igloo G for storage. The EDS will be used to destroy such munitions in place.

X. Other Business.

- A.** Rick Sprott announced that he will be retiring effective December 5, 2008. Prior to accepting the position as Executive Director of DEQ, he had just finished a retirement home in New Mexico and plans to move there very shortly. Mr. Sprott stated he has truly enjoyed working with all the Board members. Carlton Christensen, on behalf of the Board members, wished him well on his new endeavors.
- B.** The December Board meeting will be canceled. The next Board meeting will be held on January 8, 2009 at 1:30 p.m., in the Utah Department of Environmental Quality, (Conference Room 101), located at 168 North 1950 West, (Bldg. #2), SLC.
- C.** Information on how to access the web cast of Salt Lake City Mayor Ralph Becker on November 17, 2008 at 10:00 a.m. will be provided via email to all Board members.

XI. Adjourn.

The meeting adjourned at 2:29 p.m.